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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/603,018

06/24/2003

Joel K. Zupancic

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12/07/2006

SCHWARTZ COOPER CHARTERED
IP DEPARTMENT
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CHICAGO, IL 60601

EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,018

Applicant(s)

ZUPANCIC ET AL.

Examiner

Stephen Gravini

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-25 and 27-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-25 27-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 21-25 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Wensel et al. (US 4,698,767). Wensel is construed to disclose the claimed invention comprising:

receiving a power intensity value from a power intensity selector (please see column 3 lines 46-66);

initiating a counter stored in a memory (please see column 3 lines 16-33) a time cycle selector for selecting a duration value (please see column 3 lines 41-61);

incrementing a counter by the power intensity value (please see column 4 lines 48-58);

comparing the counter and a base resolution; and transmitting a power intensity output signal to a device based on the comparison of the counter and the base resolution (please see column 5 line 5 through column 6 line 59). Wensel is also construed to disclose the claimed continuous repeat until a time expiration at column 4 lines 34-47, power selection at column 1 lines 14-29, determining a feature and generating a shutdown signal or re-initiating a signal and selecting receipt of a power signal at column 3 lines 46-66.

Claims 28-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Toskala (US 4,698,767). Toskala is construed to disclose the claimed invention comprising:

- a power intensity value at column 2 lines 52-67;
- an application module for:
 - initiating a counter at column 3 lines 1-19;
 - incrementing the counter by the power intensity value at column 3 lines 28-57;
 - comparing the counter and a base resolution at column 6 lines 27-57; and
 - generating a power intensity output signal based on the comparison of the counter and the base resolution at column 8 line 22 through column 9 line 8. Toskala is also construed to disclose the claimed shutdown signal being generated for the system upon the expiration of a predetermined period of time as shown in figure 8, time cycle selector for determining the predetermined period of time as shown in figure 8, power intensity selector for determining the power intensity value as shown in figure 8, sensor for determining a feature of the system as shown in figure 9, actuator for generating a shutdown signal upon a determination that the feature has exceeded a predetermined threshold value as shown in figure 9, application module also counter after generating the power intensity output signal as shown in figure 9, application module being also for transmitting the power intensity output signal to a device for setting the material as shown in figure 9, selector for selecting at least one of a power intensity output signal as shown in figure 9.

Claims 37-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Spychalla et al. (US 5,908,000). Spychalla is construed to disclose the claimed invention comprising:

a power intensity selector for selecting a power intensity value at column 6 line 63 through column 7 line 5;

a time cycle selector for selecting a duration value at column 8 lines 27-65;

a temperature selector for selecting a temperature value at column 8 lines 9-20;

a base resolution selector for selecting a base resolution at column 5 lines 14-22;

a selector for selecting at least one of a plurality of lamps to receive the power intensity output signal at column 6 lines 50-57; and

an application module configured to initiate a counter; increment the counter by the power intensity value; determine whether the counter is greater than the base resolution; upon a determination that the counter is greater than the base resolution, generate a power intensity output signal and decrementing the counter by the base resolution; otherwise, increment the counter by the power intensity value; sense the temperature of an element of the system; whether the temperature of the element of the system has exceeded the temperature value; upon a determination that the temperature of the element of the system has exceeded the temperature value, generate a system shutdown signal; compare the counter and the duration value; and based upon the comparison of the counter and the duration value, generate a system shutdown signal at column 8 lines 66 through column 9 line 23; or alternatively:

a power intensity value;

an application module for:
initiating a counter;
incrementing the counter by the power intensity value;
comparing the counter and a base resolution; and
generating a power intensity output signal based on the comparison of the counter and the base resolution, wherein the base resolution is proportional to the power intensity value at column 8 lines 66 through column 9 line 23.

Response to Arguments

Applicants' arguments with respect to claims 21-25 and 27-38 have been construed but are moot in view of the new ground of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Josiah C. Cocks can be reached on 571 272 4874. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3749

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMG

December 5, 2006

A handwritten signature in black ink, appearing to read "Stephen Gamm". The signature is written in a cursive, flowing style.